

III. REMARKS

1. Claims 60-85 remain in the application. Claims 1-59 have been cancelled without prejudice. Claims 60, 70, 76, 83, and 85 have been amended.

2. Applicants respectfully submit that claims 60-85 are patentable over the combination of Luzeski et al. (US 6,430,177), "Luzeski", Parasnis (US 6,728,753) and Broussard et al. (US 6,269,483, "Broussard") under 35 USC 103(a).

Luzeski discloses a universal messaging system. This publication was used as a main reference in the previous office actions and in an appeal decision to reject claims of the present application under 35 USC section 103.

In the Decision on Appeal dated 10 April 2009, on page 3, it was decided that Luzeski fails to disclose "forming a streaming media session between the messaging server and the recipient terminal, using information describing the streamable media component." It was also stated that "Parasnis shows forming a streaming media session between the messaging server and the recipient terminal, using information describing the streamable media component (col. 20 lines 22 - 67)."

It is respectfully submitted that the aforementioned passage, with relation to Luzeski, includes not only one but two differences: First, forming a streaming media session between the messaging server and the recipient, and second, using information describing the streamable media component in forming the streaming media session.

When considering what an ordinarily skilled person would have done based on Luzeski, we must bear in mind the main architecture and teaching of Luzeski. We may look around what particular techniques are disclosed elsewhere and if we can find suitable motivation, we can presume that the reasonably skilled person would have combined some elsewhere disclosed technique with the main reference. However, it is not permissible to neglect, merely based on hindsight, the clearly defined architecture presented in the main reference. In this case, the attention of the reader should be drawn on Fig. 1 of Luzeski. Fig. 1 shows a separate web platform 12 and a dedicated Web server 14 for transfer of large objects. Column 18, line 51 to column 19, line 33 addresses a problem with the architecture of Luzeski with large data objects,

mentioning listening to voice mail as an example on first line of column 19. Namely, with the basic structure, data would "cross a number of software process boundaries with substantial overhead. Having to cross at least two TCP/IP stacks adds significant overhead alone." This problem is also particularly emphasized by Luzeski et al. in its third aspect on column 2, line 62 to column 3, line 13. Luzeski et al. resolves this problem by a structure where the web platform 12 handles interactions with various smaller amounts of information. For large objects such as voice mail (transmission of voice requires notoriously more data than transfer of text, for example), Luzeski et al. discloses that the Web browser exchanges a request for larger data transfer with the web platform 12, but the content is transferred between the dedicated webserver 14 and the Web browser. In effect, if an ordinarily skilled person knowing Parasnis was able to recognize that use of streaming should be imported to Luzeski, the ordinarily skilled person would have modified the data transfer link between the dedicated web server. It is appreciated that one could have argued that the claims in the appeal process would not have excluded such as case in which a request is sent to one server and a media streaming session is established with a different server. Such an interpretation is now understood by the patentee, and while not admitted to be the case, it is yet desired to be addressed in order to also show that even such an interpretation would not enable rejecting the claims based on the currently known prior art references. The claims are now amended to expressly define that *the messaging server with which the streaming session is formed is the server to which the recipient wireless terminal sends its request for the streaming session*. Clearly, Luzeski et al. strongly teaches away from the claimed solution by disclosing unmistakably why the claimed structure in Luzeski et al. environment should be avoided and by disclosing another implementation that is reasoned by Luzeski et al. to be better for their unified messaging service. Neither Parasnis nor Broussard discloses or suggests these features.

All the independent claims are now modified consistently to make the aforementioned patentable distinctions clear. Hence, the applicant respectfully requests for positive consideration of the patentability of the present patent application.

At least for these reasons, the combination of Luzeski, Parasnis, and Broussard fails to render claims 60-85 unpatentable.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper

form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

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Date

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